

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 5 of 2005

Between:

Smt. Sarikonda Koteswari, W/o. Sri Sarikonda Narasimha Raju,
r/o. Plot No. 33, Defence Colony, Sainikpuri, Secunderabad.

..... PETITIONER

AND

Kapra Municipality, rep by its Commissioner, R.R. District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue appropriate writ, order or direction, more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the respondent in issuing the notice P.No. G/UCR/44/1/2004-2005 dated 23-12-2004 under section 228(1) & (2) 217 of the A.P. Municipalities Act, 1965 as arbitrary, illegal and against the norms stipulated in the G.O.Ms.No. 423 MA dated 31-7-1998, and to pass other order or orders.

Counsel for the Petitioner:MR.SESHADRI GOALLA

Counsel for the Respondent : MR.P.RADHAKRISHNA

The Court at the stage of admission made the following ORDER:

Petitioner claims to be the owner and possessor of land admeasuring 250 sq. yards in survey Nos. 13 and 14 of Valluvar nagar, Kapra municipality. The respondent Municipality issued the impugned notice dated 23.12.2004 under Sections 228(1) & (2), 217 of the A.P. Municipalities Act, 1965 alleging that the petitioner made constructions in deviation to the sanctioned plan granted *vide* permit No.BA/G1/54/2003-2004 dated 14.05.2003. She challenges the same.

Heard learned counsel for the petitioner and learned standing counsel for the respondent-Municipality.

The case of the petitioner is that as per G.O.Ms.No.423 MA, dated 31.07.1998, 10% relaxation of set backs can be availed automatically by the owners of plots up to 300 sq. meters and the deviation mentioned in the impugned notice is within the limits, as stipulated in the said G.O.

Since the notice issued to the petitioner is a show cause notice, she has to submit her explanation. It is directed that until the final orders are passed in pursuance of the explanation submitted by the petitioner, the constructions, if any, made by her shall not be demolished. However, it is made clear that the petitioner shall not proceed with the further construction in deviation to the sanctioned plan. If the petitioner feels aggrieved by the final orders passed, it is open for her to avail the remedy of appeal.

The writ petition is accordingly disposed of.

05.01.2005

ksld

To

1. Kapra Municipality, rep by its Commissioner, R.R. District.
2. Two CD copies.